

**REMARKS**

Claims 1-34 are pending. Claim 35 is are withdrawn from consideration. Claims 4-6 are objected to due to informalities. Applicants have amended Claims 4-6, accordingly. Applicants have also amended Claims 1, 2, 3, 7, 11-12, 16, 17, 21, 26-29, 31-32, and 34. Support for the amendments to Claims 1, 2-4, 17, 31, and 34, can be found, for example, in paras. [0023], [0029], [0049], and throughout. Support for the amendments to Claim 16 can be found, for example, in para. [0029], last sentence. Support for the amendment to Claims 7, 11, 12, 21, and 26-29 can be found, for example, in the claim itself. Applicants submit that these amendments and corrections herein are made without prejudice as to patentability, including the doctrine of equivalents, and not to overcome prior art, and that no new matter has been added.

Applicants submit herewith a "Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)," together with our check in the amount of \$1540, the required fee for a large entity. The Director is also hereby authorized to charge or credit any other or additional fees to Bracewell & Giuliani LLP, Deposit Account No. 50-0259 (Attorney Docket No. 0408RF.045828).

**Claims 17-30 and 34 Include Statutory Subject Matter**

The Examiner rejected Claims 17-30 and 34 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Specifically, the Examiner stated that the claims were rejected because "these claims merely describe functional descriptive material and can be construed as being directed to software *per se*." Applicants respectfully traverse the rejection. Independent Claims 17 and 34 both feature "a processing module...to execute a set of [software] instructions...." Thus, the claims are machine-oriented claims defining the use of a processor (hardware). Reconsideration is, therefore, respectfully requested.

**Claims 1-3, 15-19, 30, and 34 are Not Anticipated**

Claims 1-3, 15-19, 30, and 34 were rejected under 35 U.S.C. § 102(e) as being anticipated by Tafoya, U.S. Patent Application No. 2003/0130974. Applicants respectfully traverse the rejection.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference[, wherein t]he identical invention must be shown in as complete detail as is contained in the ... claim." See MPEP 2131.

Tafoya describes a knowledge management database system and method for building such a system, which relies on input from various subject matter experts (humans) that collect and compile information to be stored in the database. That is, Tafoya does not disclose, teach, or suggest, or otherwise set forth or describe an automated software agent discovering or retrieving pertinent input(s) to a dynamic reference repository, as featured, at least in part, in Claims 1 and 31; or a processing module executing instructions to do so, as featured, at least in part, in Claims 17 and 34. The Examiner stated that the abstract, paras. [0004], [0010], [0046-0047], [0049], step 40 of figure 1A, and Step 2 (step 72) of figure 5, provide such teaching. Applicants respectfully submit that: Para. [0004] instead identifies a general problem being that knowledge and information enter an existing organization haphazardly, i.e., "by plan or by accident." Para. [0010] indicates that the Tafoya process is iterative. Step 40 of figure 1A illustrates searches performed *on* a knowledge database, in contrast to, those to gather information for inclusion. The abstract and paras. [0046]-[0047] describe "creation of a knowledge management database, and in particular, the use of [human] subject matter experts for review of *each* item that is compiled, catalog and added to the database system." Further, para. [0049] and step 74 of figure 5, explicitly detail that "collection and compilation of information [step 74 of the information listed in step 72] is completed by subject matter experts [(humans)]..." and that such procedure is *important* to the Tafoya invention. Accordingly, rather than teach automated collection and compilation of information, in contrast, Tafoya explicitly teaches that which Applicants have unambiguously indicated in Application para. [0007] to be inadequate: application of a significant amount of what the Applicants term in Application para. [0007], last sentence, as "human-ware"--effectively teaching away from Applicants' claimed embodiments.

Still further, Yanagihara, described in more detail in the following (below) section of this response, does not fill in the gaps. Particularly, as will be described in more detail later, even if one were to interpret Yanagihara as providing a customizable agent search, Yanagihara does not disclose, teach, or suggest a customizable software agent configured for searching, discovering, and retrieving pertinent input(s) to a dynamic reference repository, but rather, arguably teaches, at least to some extent, means or methods that can be employed to search a dynamic reference repository which is being maintained by some *other* means.

Accordingly, Applicants respectfully submit that Tafoya (alone or in combination with Yanagihara) does not disclose, teach, or suggest, or otherwise set forth each and every element of the independent Claims 1, 17, and 34, much less in as complete detail is contained in the claims. Independent Claims number 1, 17, and 34 have, therefore, been shown to be novel and define over Taroya. Further, as Tafoya explicitly teaches away from Applicants' claimed methodology, independent Claims 1, 17, and 34, would also not be obvious over Taroya, alone or in combination with Yanagihara, or any other reference.

Dependent Claims 2-3, 15-16, 18-19, and 30, have also been shown to be allowable because their corresponding independent claims have been shown to be allowable. Nevertheless, the dependent claims include independent novelty.

Claim 2, for example, features, at least in part, an automated software agent cataloging the pertinent input(s). Applicants respectfully wish to point out that one skilled in the art would not interpret a process which includes a human cataloging information as a disclosure or teaching of an automated software agent configured to catalog pertinent input(s).

Claims 3 and 19, for example, features, at least in part, maintaining the pertinent input(s). Applicants respectfully wish to point out that one skilled in the art would not interpret compiling, cataloging, or preparing information for inclusion in a database to be equivalent to maintaining such information to the database.

Claims 16 and 30, for example, features, at least in part, time stamping discovered pertinent input(s). Figure 12 illustrates the format in which information entered in the figure 11 template is then displayed to a user. Applicants respectfully wish to point out that the "date" shown in figure 12 would not be interpreted by one skilled in the art as being "time stamping

discovery," but rather, an origination date of the article entered by the human reviewer. As such, Tafoya does not disclose or describe an automated timestamp of input(s) discovered by an automated software agent through use of an automated process.

**Claims 4-7, 10-13, 20-23, 29, and 31-32 are Not Obvious**

Claims 4-7, 10-11, 12, 13, 20-23, 29, and 31-32 were rejected under 35 USC §103(a) as being unpatentable over Tafoya in view of Yanagihara et al., U.S. Patent No. 6,161,102 ("Yanagihara"). Applicants respectfully traverse the rejection.

Tafoya was discussed previously. Yanagihara generally describes a method and apparatus for processing information by searching for information in a data processing system coupled to an information storage device. Particularly, Yanagihara describes means for performing two user defined/entered search requests, concurrently, rather than sequentially, and for indicating to the user the availability (or nonavailability) of the information source. *See* col. 3, lines 15-20 and 26-28. For example, as shown in figures 4a-5, Yanagihara describes providing a first user search request window (401) which allows entry of search criteria, and the ability to concurrently create a second search request window (501, step 307) shown, e.g., in figure 5, to perform a second search without the need to have the user wait until the first search is completed (Yanagihara's stated problem to which it sought to solve). In other words, Yanagihara instead teaches a means and/or method for a user to search one or more database(s) of an information storage device, concurrently, which may or may not be immediately available due to use by another user, in contrast to Applicants teaching of discovering, retrieving, or managing pertinent input(s) to such storage device or associated database(s). *See* col. 10, lines 44-62. Such teachings are in such contrast that arguably Yanagihara should be deemed non-analogous art.

Accordingly, Applicants respectfully submit that in addition to the previously provided reasoning for there being a lack of motivation to combined any reference with Tafoya to try to build the claimed embodiments of Applicants' invention, one skilled in the art would also not be motivated to try to combine Yanagihara with Tafoya to do so, as the claimed embodiments of Applicants invention solve very unrelated problems, both specifically and in general with respect to the information technology industry. Further, even if there were motivation to combine



reference teachings, Applicants respectfully submit that such combination would not produce the claimed embodiments of Applicants' invention, at least because Yanagihara does not disclose, teach, or suggest a customizable software agent configured for searching, discovering, and retrieving pertinent input(s) to a dynamic reference repository, or a GUI for creating such search. A more detailed discussion follows:

Regarding Claims 4, 10-11, and 20-22, even if the search request windows (401, 501) were to be considered equivalents of the claimed customizable software agents, which Applicants contend they are not, Yanagihara alone or in combination with Tafoya does not disclose, teach, or suggest a customizable software agent configured for searching, discovering, and retrieving pertinent input(s) to a dynamic reference repository, as featured, at least in part, in Claims 4 and 20, or a GUI for creating such search as featured in Claims 10 and 11, but rather, instead arguably teaches, at least to some extent, means or methods that can be employed to search an existing database, which is being maintained by some *other* means (not disclosed in Yanagihara).

Regarding Claims 5 and 6 (dependent upon Claim 4), for the reasons also as noted previously and as respectfully submitted herewith, Tafoya does not disclose, teach, or suggest a customizable software agent for searching, discovering, or retrieving pertinent input(s). Although Tafoya, to at least some extent, also describes means or methods that can be employed to search a dynamic reference repository (paragraph [0034] and figure 1), information collection and compilation is completed by "human" subject matter experts. *See* para. [0049]. Applicants respectfully wish to point out that one skilled in the art would not interpret a process which includes a human searching for, or retrieving, information as a disclosure or teaching of an automated software agent configured to for searching, discovering, or retrieving pertinent input(s), an important advancement and data management.

Regarding Claims 7, 23, and 32, for the reasons also as noted previously and as respectfully submitted herewith, Tafoya does not disclose, teach, or suggest a customizable software agent comprising utilities to conduct SME reviews, assessments, or interviews. Applicants have reviewed the citations provided by the Examiner, but have found no such teaching. In contrast, para. [0047] describes sources for "raw" information, and figure 11

illustrates a template that may be used for adding a book or article to the Tafoya database system (see paras. [0023] and [0060]). Applicants respectfully submit that this would not be considered by one skilled in the art to be an automated utility for reviewing, assessing, or interviewing the Tafoya subject matter experts, but rather, in contrast, a means of providing justification for including a book or article in the Tafoya database system, and possibly assigning attributes that can be used in searching for the book or article once linked to the database system.

Regarding Claims 12 and 29, for the reasons also as noted previously and as respectfully submitted herewith, Yanagihara alone, or in combination with Tafoya, does not disclose, teach, or suggest running periodic and/or prioritized customizable agent searches. Applicants have reviewed the citations provided by the Examiner along with the remainder of the cited documents, but have found no such teaching. Equating the Yanagihara information storage devices to the claimed dynamic reference repository, for the sake of argument, cited col. 9, lines 15-20, and figure 7B, describe performing periodic searches *of* (or from) a dynamic reference repository, in contrast to performing automated searches for gathering information for (or to) the dynamic reference repository, as featured in the claim. This is a significant structural difference. Nor does Yanagihara disclose, teach, or suggest prioritization of the automated searches. Applicants respectfully submit that field (513) of figure 5, cited by the Examiner as providing such teaching, instead provides a minimum relevance rank search field which allows a user to reduce the number of displayed documents resulting from any user entered search by selecting a minimum relevance ranking of the results of the search. Accordingly, Applicants submit that these features are unrelated.

Regarding Claim 13, neither of the cited documents disclose, teach, or suggest customizable agent searches that are neutral to data type ("document format"). Applicants have reviewed the citations provided by the Examiner, but have found no such teaching. Although using similar terminology, the "different types of documents" referred to in Yanagihara, col. 8, lines 14-16, refers to documents (arguably of the same format) produced under a different search criteria, in contrast to that featured in Claim 13: a different type (*format*), e.g., "[c]ommon data types include[ing] but...not limited to electronic forms such as those compatible with Microsoft Office, internet documents, email documents, or any other compatible forms of electronic communication...[including] graphics, text, video or audio" (see Application para. [0012]).

Regarding independent Claim 31 and dependent Claim 32, first, as noted previously, Applicants respectfully submit that Tafoya would not be a proper reference for an obviousness rejection as it is not only just that kind of art that Applicant has indicated as being inadequate (see Application paragraph [0007], last sentence), Tafoya explicitly teaches away from the Applicants' claimed automated methodologies (see para. [0049] (stating "[i]mportantly, collection and compilation of information is completed by *subject matter experts...*") (emphasis added)). Further, neither Tafoya nor Yanagihara, alone or in combination, disclose, teach, or suggest an automated customizable software agent configured for searching, discovering, and retrieving pertinent input(s) *to* a dynamic reference repository, *but rather*, teach, at least to some extent, means or methods that can be employed to *search* a dynamic reference repository which is being maintained by some *other* means. Applicants respectfully submit that one skilled in the art would not equate customizable software agent(s) configured to discover, retrieve, manage, catalog, and distribute pertinent input(s) to a dynamic reference repository, with a basic window search function or agent configured merely to perform a search (according to user criteria entered in various input fields) on a pre-established and pre-maintained information storage device/associated database or dynamic reference repository. This is a significant structural difference not taught or suggested.

Accordingly, Applicants respectfully submit that Tafoya, alone or in combination with Yanagihara, does not disclose, teach, or suggest, or otherwise set forth each element of independent Claim 31 or dependent Claims 4-7, 10-11, 12, 13, 20-23, 29, and 32. Reconsideration is respectfully requested.

**Claims 8-9, and 24-25 are Not Obvious**

Claims 8, 9, 24, and 25 were rejected under 35 USC §103(a) as being unpatentable over Tafoya in view of Aaron, U.S. Patent Pub. No. 2005/0015382 ("Aaron"). Applicants respectfully traverse the rejection.

Tafoya was discussed previously. Aaron, directed to an entirely different problem than that of Tafoya and than that of Applicants, describes a system and method for determining electronic vulnerability and for performing a vulnerability and reliability assessment resulting from a policy change. See paras. [0003]-[0008]. Accordingly, Applicants respectfully submit

that one skilled in the art would not be motivated to try to combine Aaron with Tafoya in order to try to build Applicants invention (arguably to the extent of considering Aaron non-analogous art), as the claimed embodiments of Applicants' invention solve very unrelated problems, both specifically and in general with respect to the information technology industry. Further, even if there were motivation to combine reference teachings, Applicants respectfully submit that such combination would not produce the claimed embodiments of Applicants' invention, at least because Aaron does not disclose, teach, or suggest providing to, or receiving, pertinent input(s) to a dynamic reference repository. As noted previously, the claimed pertinent input(s) relate to reference knowledge which can update or add to the dynamic reference repository. As will be described in more detail below, with reference to specific claims, Aaron provides no such teachings. A more detailed discussion follows:

Regarding Claims 8 and 24, neither Aaron nor Tafoya disclose, teach, or suggest a software agent or processing module configured for discovering, retrieving, managing, or distributing pertinent input(s) to a dynamic reference repository. Nor do they disclose, teach, or suggest that such pertinent input(s) are contained in communications addressed to the dynamic reference repository. The Examiner cites Aaron, paras. [0052]-[0053] as providing such teaching. Applicants respectfully submit, however, that the cited passage instead teaches implementation of an electronic profile and policy vulnerability and reliability assessment. That is, the cited passage teaches a user submitting a request--inputting policy information, to a rule processor module "configured to provide rules for cycling through the database structure configured as a hierarchal plurality of database pages configured to include element vulnerability information," etc., to assist a "network administrator" in identifying security and/or reliability related vulnerabilities of the computer and/or network systems. *See* para. [0052], lines 4-7, para. [0006], and figure 5 (illustrating implementation of an electronic profile and policy vulnerability and reliability assessment). Notably, the submission, identified as a "policy input," is merely received as a set of terms used for the database query, which when processed by the rule processor, results in assessment of the impact that a certain system or policy change/input (described in the query) may have on the reliability and/or security of the network. *See* para. [0003], lines 7-11, and para. [0007]. Applicants acknowledge that the query must be addressed or otherwise somehow communicated to the computer system. Such query (or policy input)



would not, however, be interpreted by one skilled in the art as a communication carrying the claimed pertinent input(s) to a dynamic reference repository for updating or adding to the knowledge in the repository, or otherwise a submission of information to a database for inclusion, thereof, but rather, would be interpreted for what it is, search terms used for searching an existing database (being maintained by some *other* means) in order to initiate a reliability/vulnerability assessment to thereby allow the network administrator to determine the effect of such new policy change, etc.

Similarly, regarding Claims 9 and 25, although the policy change/input submitted to initiate the database query, can be submitted via e-mail or other means, Applicants respectfully submit that neither the submission, nor the query, would be considered pertinent input(s) (reference knowledge), but rather, would be considered a database query request to a database including element vulnerability search terms.

Accordingly, Applicants respectfully submit that Tafoya, alone or in combination with Aaron, does not disclose, teach, or suggest, or otherwise set forth each element of Claims 8-9 or 24-25. Reconsideration is respectfully requested.

**Claims 14, 26-28, and 33 are Not Obvious**

Claims 14, 26-28, and 33, were rejected under 35 USC §103(a) as being unpatentable over the combination of Tafoya in view of Yanagihara and in further view of Aaron. Applicants respectfully traverse the rejection.

Claims 14 and 28, at least in part, feature, for example, that the customizable agent or processing module searches data types which comprise electronic forms that further comprise MS Office, web document, and e-mail document compatible forms. The Examiner cites paras. [0041], [0052], and [0053], as providing such teaching. Applicants have reviewed the citations but were unable to find such teaching. Particularly, the citations refer to the "request" or "policy input" which form the terms used in the Database query as being of various formats parent does not teach that data or documents selected as pertinent input(s) for inclusion in its database comprise such varying formats. Applicants respectfully submit that this is a significant structural

difference between what is claimed, and what is taught in the provided citations. Accordingly, Claims 14 and 28 are not obvious in view of the cited documents.

Claim 33 is not obvious for a similar line of reasoning. Claim 33, for example, features, at least in part, pertinent input(s) are contained in electronic communications addressed to the dynamic reference repository. As indicated previously, the claimed pertinent input(s) refer to data for inclusion in the dynamic reference repository. As indicated directly above, the policy input or policy information would be interpreted by one skilled in the art as being a document or submission including the search terms for conducting the database inquiry. Applicants respectfully submit that electronically communicating this database query or the policy input to form the database query does not teach the communication of what the Applicants have defined as pertinent inputs (s) to a dynamic reference repository. This is an important structural difference between what is claimed, and what is taught in the provided citations. Accordingly, Claim 33 is also not obvious in view of the cited documents.

Regarding Claims 26 (dependent upon Claim 24), Applicants respectfully submit that neither of the cited documents disclose, teach, or suggest an interface to at least one database that receives pertinent input(s) contained within communications addressed to a dynamic reference repository, that is both configured to receive pertinent input(s) contained within communications addressed to a dynamic reference repository, and configured to allow a user to develop, customize, and/or manage the customizable agent(s). Nor do the cited documents disclose, teach, or suggest a customizable agent(s) configured to search and retrieve pertinent input(s) to a database or a dynamic reference repository, much less an agent that is neutral to document type (format), as featured in Claim 27 (dependent upon Claim 20). Applicants respectfully submit that the citations cited by the Examiner describe a search window, which even if equated to a customizable agent, searches an existing database, in contrast to, receiving pertinent input(s) for such database, as featured in the claim. This is a significant structural difference between what is claimed, and what is taught in the provided citations. Accordingly, Claims 26 and 27 are not obvious in view of the cited documents.

Accordingly, Applicants respectfully submit that Tafoya-Yanagihara, alone or in combination with Aaron, does not disclose, teach, or suggest, or otherwise set forth each and every element of Claims 14, 26-28, and 33. Reconsideration is respectfully requested.

In commenting upon the references and in order to facilitate a better understanding of the differences that are expressed in the claims, certain details of distinction between the cited documents and the claimed embodiments of the present invention have been mentioned, even though such differences do not appear in all of the claims. It is not intended by mentioning any such unclaimed distinctions to create any implied limitations in the claims. Not all of the distinctions between the cited documents and the claimed embodiments of Applicants' present invention have been made by Applicants. For the foregoing reasons, Applicants reserve the right to submit additional evidence showing the distinctions between claimed embodiments of Applicants' invention to be nonobvious in view of the cited documents.

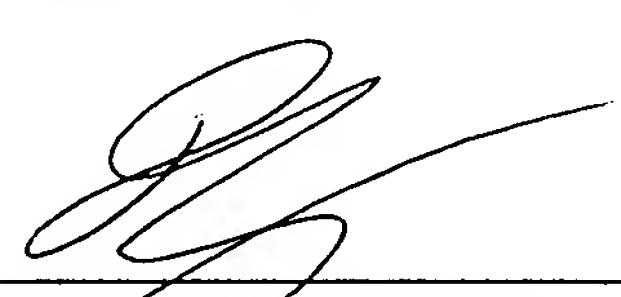
The foregoing remarks are intended to assist the Examiner in re-examining the application and in the course of explanation may employ shortened or more specific or variant descriptions of some of the claim language. Such descriptions are not intended to limit the scope of the claims; the actual claim language should be considered in each case. Furthermore, the remarks are not to be considered to be exhaustive of the facets of the claimed embodiments of the invention that render it patentable, being only examples of certain advantageous features and differences that Applicants' attorney chooses to mention at this time.

### **CONCLUSION**

In view of the amendments and remarks set forth herein, Applicants respectfully submit that the Application is in condition for allowance and issue. Accordingly, the issuance of a Notice of Allowance in due course is respectfully requested.

Respectfully submitted,

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Denver S. Bisignano  
Registration No. 60,693  
Bracewell & Giuliani LLP  
P.O. Box 61389  
Houston, TX 77208-1389  
(713) 221-1491; (713) 437-5346 (fax)